


FILE COPY

[Decorative separator consisting of a series of repeating stylized scroll or knot motifs.]

FILED IN OFFICE
2019 SEP 31 AM 11:21
LARRY L. HENDRICKS
BY  DC

3. Plaintiffs aver that the individually named defendant, Deputy Daniel Wilkey (“Wilkey”), acted as a deputy sheriff, agent, and law enforcement officer employed by the County and was at all times relevant to this matter acting under color of law and under color of his office with the County.

4. Plaintiff avers that the individually named defendant, Deputy Bobby Brewer (“Brewer”), acted as a deputy sheriff, agent, and law enforcement officer employed by the County and was at all times relevant to this matter acting under color of law and under color of his office with the County.

5. Plaintiffs maintain that the individual Defendants committed these violations, further set forth herein, as a result of policies, customs, practices, and/or procedures of the County.

6. In addition, Plaintiffs aver that individual Defendants’ acts and omissions subjected Plaintiffs to physical injury, mental anguish, humiliation, and emotional distress.

Jurisdiction and Venue:

7. This is an action to redress the deprivation of rights secured to Plaintiffs by the Fourth, and Fourteenth Amendments to the United States Constitution and for violations of Tennessee common law. Thus, as to the § 1983 claims, this Court is vested with original jurisdiction pursuant to the authority stated in Haywood v. Drown, 556 U.S. 729 (2009) and Poling v. Goins, 713 S.W.2d 305, 306 (Tenn. 1986). This Court is vested with original jurisdiction over Plaintiff’s state claims pursuant to TENN. CODE ANN. § 16-10-101, et seq.

8. Venue is proper in this Court pursuant to TENN. CODE ANN. § 20-4-102. All acts complained of occurred within Hamilton County.

a. Plaintiffs are residents of Hamilton County, Tennessee.

- b. To the best of Plaintiffs' knowledge, the individual Defendants are residents of Hamilton County, Tennessee, or in the alternative, perform their livelihood as employees of the County within Hamilton County, Tennessee.
- c. The County is a political sub-division of the State of Tennessee.

The Parties:

9. At all times relevant to this cause of action, Plaintiffs James Myron Mitchell ("James") and Latisha Shana Meniffee ("Latisha") were African-American citizens of the United States and residents and citizens of the State of Tennessee, entitled to the Equal Protection of Law.

10. At all times relevant to this cause of action, the County was a political sub-division of the State of Tennessee organized and existing under the laws of the State of Tennessee.

- a. The County finances its law enforcement department identified and averred as the Hamilton County Sheriff's Department ("sheriff's department") and provides rules and regulations for the operation of the sheriff's department.
- b. The County provides oversight of the hiring, training, discipline, and retention of all personnel in its law enforcement department.

11. At all times relevant to this cause of action, the County is responsible for the creation and maintenance of its sheriff's department, which is a law enforcement agency created under Tennessee state law and regulated by the laws of the State of Tennessee as to:

- a. The safe and humane treatment of all persons taken into and held in the custody of its sheriff's deputies and to not treat such person with unnecessary rigor.
- b. The training and certification of its law enforcement employees.
- c. The safety of persons detained or otherwise within the custody of its individual deputies¹ and agents.
- d. To properly and promptly investigate claims of misconduct by its officers and to ensure that officers who pose a risk of harm to the Plaintiff in particular and the public as a whole are not performing law enforcement duties.

12. Plaintiffs bring this action against the County.

13. At all times relevant to this cause of action, the County employed the individual Defendants who in turn were appointed by the sheriff as sheriff's deputies. The individual Defendants acted under the color of their office and under the color of law, statute, ordinance, regulation, custom, or usage of the County. In addition:

- a. At all times relevant to this cause of action, the individual Defendants acted in their official capacities as employees for the County as defined under TENN. CODE ANN. § 29-20-102.
- b. At all times relevant to this cause of action, the individual Defendants acted by virtue of or under the color of their offices as a deputy sheriff pursuant to TENN. CODE ANN. § 8-8-302.
- c. Plaintiffs sue the individual Defendants in their individual capacities.

¹ Hereinbefore and after the terms, "officers" and "deputies" are used interchangeably to refer to all of the County's law enforcement and correctional employees.

Factual Basis:

Individual Defendants:

14. On July 10, 2019, Plaintiffs were traveling in a motor vehicle and drove by Wilkey.

15. Wilkey followed Plaintiffs, and conducted a traffic stop of the Plaintiffs on the false claims of “window tint violation,” and that he could smell the odor of marijuana as Wilkey followed the Plaintiffs.

16. Wilkey drove his police vehicle, with the windows up.

17. Brewer joined Wilkey in the traffic stop.

18. The individual defendants approached the Plaintiffs as they sat in their vehicle. Latisha was the driver and had a valid driver’s license.

19. Brewer ordered James from the vehicle.

20. Wilkey, without lawful justification, physically removed Latisha from the vehicle.

21. James told the individual Defendants that he possessed marijuana.

22. Without any lawful justification, Wilkey handcuffed Latisha and forced her to stand between her vehicle and one of the police vehicles.

23. Wilkey handcuffed James, and the individual Defendants took James to the front of one of their police vehicles.

24. Wilkey then began to grab James’ genitals. When James told Wilkey that James had an untreated and large hernia and that Wilkey’s actions were causing James pain, Brewer and Wilkey jerked James’ arms high above his back, and slammed James face-down onto the hot engine hood, causing injury to James.

25. Wilkey and Brewer then beat James with fists, knees, and feet, slammed James to the ground, and continued their brutalization of James.

26. Wilkey and Brewer then removed James' pants and shoes, while still beating James.

27. Wilkey and Brewer then forced James' face back onto the hot hood of the same police vehicle and continued to jerk his arms high above his back, and beat James.

28. While Brewer continued to force James' face back onto the hot hood of the same police vehicle and jerk his arms high above his back Wilkey donned a set of gloves, pulled down James' underwear, and conducted an anal cavity search of James.

29. During the entirety of the events between Wilkey, Brewer, and James, Latisha was forced by the individual Defendants to watch, thereby placing her in fear that they would turn on her and treat her the same way. Moreover, the individual Defendants placed Latisha in fear that she would have to watch them shoot and kill James, her fiancé.

30. The individual Defendants placed James in one of the police vehicles.

31. Wilkey then removed the handcuffs from Latisha, escorted her back to her vehicle, and told her that she did not see anything, and told her to leave the scene. Wilkey also falsely charged/cited Latisha with a window tint violation.

32. Wilkey transported James to the Hamilton County jail and charged him with numerous crimes including resisting arrest. Wilkey also unlawfully seized cash from James.

33. James posted bond and upon his release sought medical care.

34. As a direct and proximate result of the actions of the individual Defendants, James suffered tearing in his anus, and multiple contusions. James also suffered aggravation of a

hernia that eventually required surgery. In addition, James suffered mental anguish, fear of death or grievous bodily harm, and humiliation.

35. As a direct and proximate result of the actions of the individual Defendants, Latisha suffered fear of death or grievous bodily harm, humiliation, and mental anguish.

36. The Hamilton County District Attorney dismissed without conditions all charges brought by the individual Defendants against both Plaintiffs.

County:

Rodney Terrell

37. The County failed to suspend or terminate county corrections officer Rodney Terrell (“Terrell”) after Terrell unlawfully used a Taser on Nancy Mason (“Mason”) while in the custody of the Sheriff in March 2015.

38. In an effort to cover-up his unreasonable use of force on Mason, Terrell wrote a use of force report wherein he falsely claimed a justified use of the Taser on Mason, which 3 of Terrell’s supervisors holding the ranks of Lieutenant, Captain, and Administration approved and endorsed as Terrell having “followed Policy/Training.”

39. However, the County then reopened the investigation as to Terrell’s use of force on Mason, and merely reprimanded Terrell.

40. Despite a finding by the Sheriff’s own Internal Affairs investigation that Terrell used excessive force on Mason and that the force caused Mason to suffer a serious fractured arm, the Sheriff merely stated the following in regard to the incident:

“Policy needs review & better clarification made. It appears the employees involved had no malicious intent, but training & policies need to be addressed with each employee involved.”

41. Despite a finding by the Sheriff's own Internal Affairs investigation that Terrell used excessive force on Mason and that the force caused Mason to suffer a serious fractured arm, the County did not suspend or terminate Terrell. Rather, sometime later, the County actually promoted Terrell to the rank of Lieutenant.

Daniel Hendrix

42. On August 15, 2015, the late Deputy Daniel Hendrix ("Hendrix") savagely assaulted a fully handcuffed and shackled prisoner identified as Leslie Hayes ("Hayes") at the Silverdale Complex.

43. This assault was captured in its entirety on video.

44. Hendrix then lied to Sheriff's Department investigators about his assault upon Hayes and lied when he brought false felony criminal charges against Hayes, which were later dismissed.

45. Although criminal charges were brought against Hendrix, they were eventually dropped based upon a false claim that County authorities did not know the whereabouts of Hayes to prosecute Hendrix despite the fact the County knew Hayes was held in the Sequatchie County Jail. County authorities could have easily transported Hayes to Hamilton County to allow her to testify against Hendrix but refused or failed to do so.

46. Subsequent to the state's dismissal of the criminal charges against him, the county returned Hendrix to his full duties as a Deputy.

47. On March 29, 2017, Hendrix was shot and killed by law enforcement after Hendrix became violent with two female Chattanooga Police officers while celebrating Hendrix's birthday.

48. Upon Chattanooga Police law enforcement's arrival, Hendrix drew his County issued gun, became agitated and refused commands to drop the weapon, whereupon law enforcement shot and killed Hendrix.

49. Despite the full knowledge of Hendrix's propensity to use extreme violence against citizens in general, the County allowed Hendrix to return to full duty with the full use and benefit of his county issued gun.

Edmond Blake Kilpatrick

50. Edmond Blake Kilpatrick ("Kilpatrick") was hired by the County sometime in 2009 as a deputy sheriff. At the present time, he is a detective with the sheriff's department.

51. Prior to his employment by the County, Kilpatrick was a defendant in an Order of Protection petition filed by Sylvana Johnson ("Johnson") in Meigs County, Tennessee under case number OP370. This Petition was at the time the County employed Kilpatrick, a public record and readily available to anyone.

52. In the petition, Johnson claimed that Kilpatrick forced his way into her residence, attacked a person she named "Matt," as well as herself.

53. Forced entry into a residence to commit a crime therein constitutes the state felony of aggravated burglary.

54. Kilpatrick stands accused of killing Christopher Sexton in U.S. District Court Case No. 1:18-cv-17.

55. Kilpatrick also stands accused of beating Charles Toney, Jr. ("Toney"), which was recorded by a bystander.

56. In this recording, while handcuffed and on the ground, Kilpatrick is beating and pummeling Toney without any lawful and believable justification.

57. This video recorded beating happened on December 3, 2018.

58. The recording was “viral” on “YouTube,” and was the focus of much media exposure to the command staff of the County’s sheriff’s department.

59. It was not until on or about December 19, 2018, that the County, through its sheriff’s department, placed Kilpatrick on suspension (with pay) pending further investigations by federal authorities.

60. Although the office of the District Attorney General for Hamilton County referred the Kilpatrick matter to federal authorities some days prior to December 19, 2018, the suspension happened almost immediately after much pressure from two Hamilton County Commissioners, the local chapter of the NAACP, and local grass-roots protests.

Sheriff Jim Hammond

61. The sheriff of the County is Jim Hammond (“Hammond”).

62. In 2012, when addressing civic leaders about black gang members Hammond said the following: “We need to run them out of town, put them in jail or send them to the funeral home.”

63. In response to the conduct of Kilpatrick, and in response to a video recorded beating, strip search, and anal cavity search of a handcuffed James Mitchell by Wilkey and Deputy Bobby Brewer, Hammond stated he stood by his deputies, that the same deputies were “seasoned” officers, “good” officers, and that he stood by their “ability and training.”

64. Despite Wilkey’s questionable killing of an unarmed man by gunshot to the head while Wilkey worked for the Rhea County Sheriff, Hammond approved the hire of Wilkey as a deputy for the County.

65. Consequently, by setting the example through Terrell, Hendrix, Kilpatrick, and Hammond, the County created an environment that allowed the individual Defendants to believe that abusive behavior would not be properly monitored, investigated, nor punished and was tantamount to a policy of the County. This failure constitutes deliberate indifference by the County and was the direct and proximate cause of Plaintiffs' damages, and suffering and mental and physical injuries.

Count One:
Violation of Civil Rights Under
Color of Law 42 U.S.C. §1983 –
Excessive Force

66. James incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

67. The individual Defendants had non-delegable duties to not use excessive force against James and to intervene and prevent his fellow defendant from using excessive force against James.

68. The individual Defendants had non-delegable duties to report the misconduct of their fellow defendant to the command staff of the County's sheriff's department.

69. The force the individual Defendants used against James amounted to unlawful force that carried a high risk of causing serious and life-threatening bodily harm, was unnecessary and unreasonable under the circumstances and was the direct and proximate cause of James' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

70. No reasonable law enforcement officer would have acted in this manner.

71. Through video of the events described herein, the individual Defendants actually used force against James and thus constituted a joint effort in which they participated as equals.

72. In addition, the failure of the individual Defendants to intervene and stop the other in their joint actions as set forth herein, and their failure to report the misconduct of their fellow officer, constituted a joint effort in which they participated as equals.

73. The County's continued employment of Terrell and Hendrix and the County's failure to discipline Terrell and Hendrix in any meaningful manner, created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

74. The County's promotion of Terrell to lieutenant after his unnecessary use of force against Nancy Mason created an atmosphere that other County employees, including the individual defendants, could act in a similar manner, and thus not be punished in any significant way.

75. The County's employment of Kilpatrick despite his history of violence against women during the commission of at least one felony, the continued display of violence in the unnecessary killing of Christopher Sexton, the promotion of Kilpatrick to a detective position, and the delay suspension of Kilpatrick despite overwhelming video evidence of Kilpatrick's propensity to use violence against a helpless and handcuffed arrestee created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

76. The County's employment of Wilkey despite his history of violence against an unarmed person created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

77. Hammond's comments created an atmosphere that other County employees, including the individual Defendants, could act as they have in this instance, and thus not be punished in any significant way.

78. The failures of the County set forth in previous paragraphs constituted deliberate indifference on the part of the County, created an environment that allowed the misconduct of the individual Defendants against James, constituted a policy of the County, and was the direct and proximate cause of James' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

79. The County hired Kilpatrick despite Kilpatrick's 2006 history of extreme violence. The County's employment of Kilpatrick was either with the full knowledge of the Meigs County incident, and thus condoned by the County, or was a product of a slipshod vetting process before hiring Kilpatrick. Either way, the County's employment of Kilpatrick constituted a message to other County employees, including the individual Defendants, that no matter your conduct, you can become employed with the County as a deputy sheriff.

80. The failures of the County in regard to Kilpatrick's employment created an environment that allowed the misconduct of the individual Defendants against James, constituted a policy of the County, and was the direct and proximate cause of James' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

81. The individual Defendants acted under color of law and their negligence and intentional acts along with the deliberate indifference of the County deprived James of his rights secured to him under the Fourth and Fourteenth Amendments to United States Constitution to be free from unreasonable seizures by excessive force without the Due Process of Law.

82. James sues the County and the individual Defendants in their official and individual capacities under this Count.

Count Two:
Violation of Civil Rights Under
Color of Law 42 U.S.C. §1983 –
Failure to Protect and Render Aid

83. Plaintiffs incorporate all the prior averments in the previous paragraphs as if fully set forth herein.

84. Each individual defendant had non-delegable duties to intervene and prevent his fellow defendant from using excessive force against James.

85. The individual defendants had non-delegable duties to report the misconduct of their fellow defendants to the command staff of the County's sheriff's department.

86. Once James and Latisha were in the joint custody of the individual defendants there existed a special relationship between James and Latisha and all defendants.

87. Once James was in the custody of the individual Defendants, they had an affirmative duty to protect James from injury from one another and to report the misconduct of their fellow co-defendants to those charged with the oversight of officer conduct.

88. Once Latisha was in the custody of the individual Defendants, they had an affirmative duty to protect Latisha from mental anguish from one another and to report the misconduct of their fellow co-defendants to those charged with the oversight of officer conduct.

89. The County had a non-delegable duty to ensure that it properly trained officers to intervene when fellow officers used excessive force, and had an affirmative duty to ensure that its officers were properly trained in the use of force.

90. The failure of the individual Defendants to intervene and stop the other in their actions as set forth herein and their failure to report the misconduct of their fellow officers constituted a joint effort in which they participated as equals.

91. The County had a non-delegable duty to ensure that it properly trained officers to intervene when fellow officers acted as Wilkey and Brewer did in this matter.

92. The County's continued employment of Terrell and Hendrix and the County's failure to discipline Terrell and Hendrix in any meaningful manner, created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

93. The County's promotion of Terrell to lieutenant after his unnecessary use of force against Nancy Mason created an atmosphere that other County employees, including the individual defendants, could act in a similar manner, and thus not be punished in any significant way.

94. The County's employment of Kilpatrick despite his history of violence against women during the commission of at least one felony, the continued display of violence in the unnecessary killing of Christopher Sexton, the promotion of Kilpatrick to a detective position, and the delay suspension of Kilpatrick despite overwhelming video evidence of Kilpatrick's propensity to use violence against a helpless and handcuffed arrestee created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

95. The County's employment of Wilkey despite his history of violence against an unarmed person created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

96. Hammond's comments created an atmosphere that other County employees, including the individual Defendants, could act as they have in this instance, and thus not be punished in any significant way.

97. The failures of the County set forth in previous paragraphs constituted deliberate indifference on the part of the County, created an environment that allowed the misconduct of the individual Defendants against the Plaintiffs, constituted a policy of the County, and was the direct and proximate cause of Plaintiffs' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

98. The County hired Kilpatrick despite Kilpatrick's 2006 history of extreme violence. The County's employment of Kilpatrick was either with the full knowledge of the Meigs County incident, and thus condoned by the County, or was a product of a slipshod vetting process before hiring Kilpatrick. Either way, the County's employment of Kilpatrick constituted a message to other County employees, including the individual Defendants, that no matter your conduct, you can become employed with the County as a deputy sheriff.

99. The failures of the County in regard to Kilpatrick's employment created an environment that allowed the misconduct of the individual Defendants against the Plaintiffs, constituted a policy of the County, and was the direct and proximate cause of Plaintiff's injuries both physical and mental, needless suffering, and loss of enjoyment of life.

100. The individual Defendants acted under color of law and their negligence and intentional acts along with the deliberate indifference of the County deprived the Plaintiffs of their rights secured to them under the Fourteenth Amendment to United States Constitution to be free from injury and/or harm while in the custody of the individual Defendants and the County.

101. Plaintiffs sue the County and the individual Defendants in their official and individual capacities under this Count.

Count Three:
Violation of Civil Rights Under
Color of Law 42 U.S.C. §1983 –
Unreasonable Seizure

102. Plaintiffs incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

103. The individual Defendants had a non-delegable duty to refrain from seizing both Plaintiffs without probable cause.

104. Wilkey had no lawful basis to seize the Plaintiffs through a traffic stop based upon a false claim of window tint violation and the fantastical claims of being able to smell marijuana coming from a moving vehicle while Wilkey also drove a vehicle with the windows up. No reasonable law enforcement officer would have acted in this manner.

105. The County's continued employment of Terrell and Hendrix and the County's failure to discipline Terrell and Hendrix in any meaningful manner, created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

106. The County's promotion of Terrell to lieutenant after his unnecessary use of force against Nancy Mason created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

107. The County's employment of Kilpatrick despite his history of violence against women during the commission of at least one felony, the continued display of violence in the unnecessary killing of Christopher Sexton, the promotion of Kilpatrick to a detective position,

and the delay suspension of Kilpatrick despite overwhelming video evidence of Kilpatrick's propensity to use violence against a helpless and handcuffed arrestee created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

108. The County's employment of Wilkey despite his history of violence against an unarmed person created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

109. Hammond's comments created an atmosphere that other County employees, including the individual Defendants, could act as they have in this instance, and thus not be punished in any significant way.

110. The failures of the County set forth in previous paragraphs constituted deliberate indifference on the part of the County, created an environment that allowed the misconduct of the individual Defendants against the Plaintiffs, constituted a policy of the County, and was the direct and proximate cause of Plaintiffs' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

112. The County hired Kilpatrick despite Kilpatrick's 2006 history of extreme violence. The County's employment of Kilpatrick was either with the full knowledge of the Meigs County incident, and thus condoned by the County, or was a product of a slipshod vetting process before hiring Kilpatrick. Either way, the County's employment of Kilpatrick constituted a message to other County employees, including the individual Defendants, that no matter your conduct, you can become employed with the County as a deputy sheriff.

113. The failures of the County in regard to Kilpatrick's employment created an environment that allowed the misconduct of the individual Defendants against the Plaintiff,

constituted a policy of the County, and was the direct and proximate cause of Plaintiffs' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

114. The individual Defendants acted under color of law and their negligence and intentional acts along with the deliberate indifference of the County deprived the Plaintiffs of their rights secured to them under the Fourth Amendment to United States Constitution to be free from unreasonable seizures.

115. Plaintiffs sue the County and the individual Defendants in their official and individual capacities under this Count.

Count Four:
Violation of Civil Rights Under
Color of Law 42 U.S.C. §1983 –
Unreasonable Search

116. James incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

117. The individual Defendants had a non-delegable duty to refrain from strip searching and cavity searching James on the side of the road or without the assistance of a medical professional. No reasonable law enforcement officer would have acted in this manner.

118. Wilkey had no lawful basis to, in essence, rape James. Brewer had no lawful basis to participate as an equal with Wilkey as Wilkey probed James' anus on the side of the road.

119. The County's continued employment of Terrell and Hendrix and the County's failure to discipline Terrell and Hendrix in any meaningful manner, created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

120. The County's promotion of Terrell to lieutenant after his unnecessary use of force against Nancy Mason created an atmosphere that other County employees, including the

individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

121. The County's employment of Kilpatrick despite his history of violence against women during the commission of at least one felony, the continued display of violence in the unnecessary killing of Christopher Sexton, the promotion of Kilpatrick to a detective position, and the delay suspension of Kilpatrick despite overwhelming video evidence of Kilpatrick's propensity to use violence against a helpless and handcuffed arrestee created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

122. The County's employment of Wilkey despite his history of violence against an unarmed person created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

123. Hammond's comments created an atmosphere that other County employees, including the individual Defendants, could act as they have in this instance, and thus not be punished in any significant way.

124. The failures of the County set forth in previous paragraphs constituted deliberate indifference on the part of the County, created an environment that allowed the misconduct of the individual Defendants against James, constituted a policy of the County, and was the direct and proximate cause of James's injuries both physical and mental, needless suffering, and loss of enjoyment of life.

125. The County hired Kilpatrick despite Kilpatrick's 2006 history of extreme violence. The County's employment of Kilpatrick was either with the full knowledge of the Meigs County incident, and thus condoned by the County, or was a product of a slipshod vetting

process before hiring Kilpatrick. Either way, the County's employment of Kilpatrick constituted a message to other County employees, including the individual Defendants, that no matter your conduct, you can become employed with the County as a deputy sheriff.

126. The failures of the County in regard to Kilpatrick's employment created an environment that allowed the misconduct of the individual Defendants against James, constituted a policy of the County, and was the direct and proximate cause of James' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

127. The individual Defendants acted under color of law and their negligence and intentional acts along with the deliberate indifference of the County deprived James of his rights secured to him under the Fourth Amendment to United States Constitution to be free from unreasonable searches.

128. James sues the County and the individual Defendants in their official and individual capacities under this Count.

Count Five:
Violation of Civil Rights Under
Color of Law 42 U.S.C. §1983 –
Malicious Prosecution

129. Plaintiffs incorporate all the prior averments in the previous paragraphs as if fully set forth herein.

130. Wilkey had a non-delegable duty to refrain from making false criminal charges simply to provide justification of his and Brewer's misconduct as set forth in this Complaint.

131. Wilkey had no probable cause to bring the charges against the Plaintiffs. Wilkey brought the resisting arrest charge against James in his attempt to justify his and Brewer's misconduct against James and Latisha. No reasonable law enforcement officer would have acted in this manner.

132. The County's continued employment of Terrell and Hendrix and the County's failure to discipline Terrell and Hendrix in any meaningful manner, created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

133. The County's promotion of Terrell to lieutenant after his unnecessary use of force against Nancy Mason created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

134. The County's employment of Kilpatrick despite his history of violence against women during the commission of at least one felony, the continued display of violence in the unnecessary killing of Christopher Sexton, the promotion of Kilpatrick to a detective position, and the delay suspension of Kilpatrick despite overwhelming video evidence of Kilpatrick's propensity to use violence against a helpless and handcuffed arrestee created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

135. The County's employment of Wilkey despite his history of violence against an unarmed person created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

136. Hammond's comments created an atmosphere that other County employees, including the individual Defendants, could act as they have in this instance, and thus not be punished in any significant way.

137. The failures of the County set forth in previous paragraphs constituted deliberate indifference on the part of the County, created an environment that allowed the misconduct of

the individual Defendants against Plaintiffs, constituted a policy of the County, and was the direct and proximate cause of Plaintiffs' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

138. The County hired Kilpatrick despite Kilpatrick's 2006 history of extreme violence. The County's employment of Kilpatrick was either with the full knowledge of the Meigs County incident, and thus condoned by the County, or was a product of a slipshod vetting process before hiring Kilpatrick. Either way, the County's employment of Kilpatrick constituted a message to other County employees, including the individual Defendants, that no matter your conduct, you can become employed with the County as a deputy sheriff.

139. The failures of the County in regard to Kilpatrick's employment created an environment that allowed the misconduct of the individual Defendants against Plaintiffs, constituted a policy of the County, and was the direct and proximate cause of Plaintiffs' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

140. The individual Defendants acted under color of law and their negligence and intentional acts along with the deliberate indifference of the County deprived Plaintiffs of their rights secured to them under the Fourteenth Amendment to United States Constitution to be free from malicious prosecutions.

141. Plaintiffs sue the County and the individual Defendants in their official and individual capacities under this Count.

Count Six:
Violation of Civil Rights Under
Color of Law 42 U.S.C. §1983 –
Deprivation of Equal Protection

142. Plaintiffs incorporate all the prior averments in the previous paragraphs as if fully set forth herein.

143. Under the Fourteenth Amendment to the United States Constitution, Plaintiffs had rights equal to white citizens to be free from unreasonable seizures and searches, to be free from malicious prosecution, and to not be deprived of property without Due Process of Law.

144. The failures of the individual Defendants, and the County's continued employment of Terrell and Hendrix and the County's failure to discipline Terrell and Hendrix in any meaningful manner, created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

145. The County's promotion of Terrell to lieutenant after his unnecessary use of force against Nancy Mason created an atmosphere that other County employees, including the individual defendants, could act in a similar manner, and thus not be punished in any significant way.

146. The County's employment of Kilpatrick despite his history of violence against women during the commission of at least one felony, the continued display of violence in the unnecessary killing of Christopher Sexton, the promotion of Kilpatrick to a detective position, and the delay suspension of Kilpatrick despite overwhelming video evidence of Kilpatrick's propensity to use violence against a helpless and handcuffed arrestee created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

147. The County's employment of Wilkey despite his history of violence against an unarmed person created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

148. Hammond's comments created an atmosphere that other County employees, including the individual Defendants, could act as they have in this instance, and thus not be punished in any significant way.

149. The failures of the County set forth in previous paragraphs constituted deliberate indifference on the part of the County, created an environment that allowed the misconduct of the individual Defendants against Plaintiffs, constituted a policy of the County, and was the direct and proximate cause of Plaintiffs' loss of their constitutional rights.

150. The County hired Kilpatrick despite Kilpatrick's 2006 history of extreme violence. The County's employment of Kilpatrick was either with the full knowledge of the Meigs County incident, and thus condoned by the County, or was a product of a slipshod vetting process before hiring Kilpatrick. Either way, the County's employment of Kilpatrick constituted a message to other County employees, including the individual Defendants, that no matter your conduct, you can become employed with the County as a deputy sheriff.

152. The failures of the County in regard to Kilpatrick's employment created an environment that allowed the misconduct of the individual Defendants against Plaintiffs, constituted a policy of the County, and was the direct and proximate cause of Plaintiffs' loss of their constitutional rights.

153. The individual Defendants acted under color of law and their negligence and intentional acts along with the deliberate indifference of the County deprived Plaintiffs of rights secured to them Fourteenth Amendments to United States Constitution to the Equal Protection of Law.

154. Plaintiffs sue the County and the individual Defendants in their official and individual capacities under this Court.

Count Seven:
Negligence

155. Plaintiffs incorporate all the prior averments in the previous paragraphs as if fully set forth herein.

156. As stated previously, the individual Defendants, at the time of the events averred in this Complaint, acted under the color of their offices as deputy sheriffs for the County.

157. TENN. CODE ANN. § 8-8-302, allows anyone incurring any wrong, injury, loss, damage or expense resulting from any act or failure to act on the part of any deputy appointed by the sheriff to bring suit against the County.

158. The Tennessee Constitution, article 1, section 13, prohibits the treatment of Plaintiff upon arrest and confinement with unnecessary rigor. Consequently, the individual Defendants had an affirmative and non-delegable duty to not treat James in the manner averred in this Complaint nor subject Latisha to the horror she had to watch. No reasonable law enforcement officer would have acted in this manner.

159. The individual Defendants' failures to protect Plaintiffs, to not force Plaintiffs to the humiliation of what was known during the slavery years of the United States as "buck-breaking," to not seize Plaintiffs without probable cause, and to not search James in the manner described herein, were the direct and proximate cause of Plaintiffs' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

160. The County, as stated in this Complaint, had an affirmative duty to properly supervise, discipline, and train its deputies to not use act as averred herein, to report fellow deputy misconduct, and to not hire persons as deputies with easily discoverable histories of violence.

161. The failures of the County were the direct and proximate cause of Plaintiffs' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

162. Plaintiffs sue the County and the individual Defendants in their individual and official capacities under this Count.

Count Six:

Battery – Both Individual Defendants

163. James incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

164. The individual Defendants' concerted acts and omissions as averred in this Complaint were not based on any lawful execution of their duties as law enforcement officers. Rather, the individual defendants acted in concert to inflict physical and mental harm upon James. No reasonable law enforcement officer would have acted in this manner.

165. The individual Defendants' conduct was the direct and proximate cause of James injuries both physical and mental, needless suffering, and loss of enjoyment of life.

166. James sues the individual Defendants in their individual capacities under this Count.

Count Seven:

Assault – Both Individual Defendants

167. James incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

168. The individual Defendants' acts and omissions as averred in this Complaint were not based on any lawful execution of their duties as law enforcement officers. Rather, the individual Defendants acted in concert to inflict physical harm upon James. No reasonable law enforcement officer would have acted in this manner.

169. The individual defendants' conduct was the direct and proximate cause of James' injuries both physical and mental, needless suffering, and loss of enjoyment of life.

170. James sues the individual Defendants in their individual capacities under this Count.

Count Eight:
Intentional Infliction
of Emotional Distress –
Both Individual Defendants

171. Plaintiffs incorporate all the prior averments in the previous paragraphs as if fully set forth herein.

172. At the time of the events averred in this Complaint, a special relationship existed between the individual Defendants and Plaintiffs.

173. Despite their full knowledge of the pain and harm their actions caused Plaintiffs during their physical encounter with the Plaintiffs, the individual Defendants continued in their actions.

174. No reasonable deputy would have acted in this manner toward the Plaintiffs.

175. As a direct and proximate cause of the individual Defendants' conduct, Plaintiffs have suffered mental injury.

176. Plaintiffs sue the individual Defendants in their individual capacities under this Count.

Count Nine:
Malicious Prosecution-Wilkey

177. Plaintiffs incorporate all the prior averments in the previous paragraphs as if fully set forth herein.

178. Wilkey had a non-delegable duty to refrain from making false criminal charges simply to provide justification of his and Brewer's misconduct as set forth in this Complaint.

179. Wilkey had no probable cause to bring the charges against the Plaintiffs. Wilkey brought the resisting arrest charge against James in his attempt to justify his and Brewer's misconduct against James and Latisha. No reasonable law enforcement officer would have acted in this manner.

180. The State of Tennessee, after review of the video of the events dismissed all charges against Plaintiffs without any conditions.

181. Plaintiffs sue Wilkey in his individual capacity under this count.

WHEREFORE, the Plaintiffs demand judgment against the Defendants both joint and several and requests the following relief:

A. The omissions of the County constituted willful and wanton indifference to and with deliberate disregard for the constitutional civil rights of the Plaintiffs. Thus, the Plaintiffs are entitled to actual damages, and attorney fees pursuant to 42 U.S.C. §1988.

B. The individual defendants committed their acts against Plaintiffs with actual malice toward the Plaintiffs and with willful and wanton indifference to and with deliberate disregard for the constitutional civil rights of the Plaintiff. Thus, Plaintiffs are entitled to punitive damages, actual damages, and attorney fees pursuant to 42. U.S.C. §1988.

C. The Court to enter judgment against the Defendants and to award Plaintiffs compensatory damages in the amount of TW0 MILLION DOLLARS (\$2,000,000).

D. The Court to enter judgment against the individual Defendants and to award Plaintiffs punitive damages in the amount of FIFTEEN MILLION DOLLARS (\$15,000,000).

E. That the Court award costs, and discretionary costs.

- F. Any other relief the Court may deem fit and proper.
- G. Any other relief the Court may deem fit and proper pursuant to 42 U.S.C. § 1988,
and
- H. Allow a jury trial on all issues.

Respectfully submitted,

By: 

ROBIN RUBEN FLORES

TENN. BPR #20751

GA. STATE BAR #200745

Attorney for Plaintiffs

4110-A Brainerd Road

Chattanooga, TN 37411

(423) 267-1575

robin@robinfloreslaw.com